

**CITY OF GLOUCESTER
CONSERVATION COMMISSION MINUTES
WEDNESDAY June 15, 2011 - 7:00 PM**

**CITY HALL, KYROUZ AUDITORIUM
ROBERT GULLA, CHAIRMAN**

Members Present

**Robert Gulla, Chair
Ann Jo Jackson, Co Chair
Barry Gradwohl
Charles Anderson
Steve Phillips
Arthur Socolow
Helen Farr, Absent**

Staff:

**Lisa Press, Agent
Pauline Doody, Recording Clerk**

Items may be heard 15 minutes before their scheduled time.

I. 1-5 minutes, review of amended, updated or final information, status reviews, modifications, signing decisions etc.

28-1769 27 Kondelin Road

Attorney Chip Nylen representing Ralph Hobbs

Mr. Nylen stated the original Order of Conditions was denied but then an appeal was held. There are three minor items remaining to discuss and hopefully get resolved. Mr. Nylen read from a letter submitted to the commission. (Available for review at 3 Pond Road.) The first item was that the commission wanted is: the owner had to come to the commission if the use changed or the owner changed.

Commission Comments:

Ms. Press stated the first requirement was because of concern as to what could get into the wetland and we wanted to make a new owner know of the conditions for the site.

Rob Gulla joined the commission at 7:11pm

Mr. Gulla stated he had read the letter and it is such a sensitive site and when lands transfer realtors aren't required to pass information on. We wanted to make sure all the conditions don't get lost in a transfer. He stated concern with items 1 & 3 and number two needs clarification.

Mr. Nylen stated that we agree with number two, we would like to the Agent to come and take a look so we have a base line to start from and stay in compliance. We are agreeing to monitor. The same with number 3; we agree, but we would like the Agent to establish a baseline. We are not attempting to change water quality requirement

Mr. Gulla asked why the change in number one?

Mr. Nylen stated the person who buys the property would have to come to commission and tell them they are the new owners. It will be stated in the P&S that they must do so.

Ms. Jackson stated we want to make sure the new owner would understand the conditions they would have to be adhered to. An appearance or copy of notification to us would be acceptable..

Mr. Gulla stated that if you could edit these items to be clearer to us, it would be helpful. The underlying theme is that we went through a long process. There are a lot of conditions and is a sensitive site and must be managed carefully.

Motion: To continue 28-1769 27 Kondelin Road to July 6, 2011 for 7:05.

1st: Barry Gradwohl

2nd: Ann Jo Jackson

Vote: Approved 6-0

28-2148 137 Wingaersheek Rd

Attorney Chip Nylén,

Mr. Nylén stated there are a couple of issues. The first is the escrow agreement for restoration work to be performed. The best time to plant is November/ December. DEP is okay with it and there would be a \$4000.00 escrow check written to the city and put in escrow for the work to be done at that time. In the meantime, construction work could begin.

Mr. Phillips stated that at the last meeting DEP position was that we require the completion of the restoration work first. Mr. Nylén's position was that the time of planting season and would cause a delay. The applicant has been in violation for quite some time and escrow agreements can get messy. Mr. Phillips stated normally would like to accommodate an applicant. I assume compliance satisfaction would go into the order of conditions. However, given the violation history, it is a more debatable call.

Mr. Gulla stated he is concerned with allowing someone to go forth in comfort, when in fact, there is a violation. It must be rectified first. It has been an order that has been outstanding for a couple of years.

Ms. Jackson concurred with Mr. Gulla.

Mr. Nylén stated the other issue is about moving the retaining wall, to be 50 feet away from coastal dune. The pool is proposed to be in buffer zone to coastal dune. When this was put together it includes getting rid of an old septic system, removing invasives, taking up an asphalt driveway, and there is a lot of mitigation for this project. It meets the performance standards for coastal dune. DEP didn't comment further on this matter. We assumed the matter was mute. It was raised at the last meeting. We don't see any technical reason to move it. We'd like to keep it where it is.

Ms. Press stated there is lawn between them and the dune; however, it is completely maxing out the lot as far as hardscaping. Hardscaping and wind causes gullies.

Mr. Phillips stated another issue that was unresolved at the last meeting in DEP's order of conditions is that vehicles are prohibited on the path. Mr. Nylén was going to check to see if that is allowed.

Mr. Nylén stated he had not found anything and the owner thought that with the deed he had access.

Ms. Press stated that after planting this fall and any plants that don't make it need to be replanted in the spring. If the dye-back is greater than 50 % then we condition for that.

Mr. Gulla stated to Mr. Nylén that you plant in tandem with the project you will still have to have an escrow account

Ms. Jackson stated if there is more a 50% dye off we may have to call in a professional and I would like to see more than \$5000.00.

Mr. Nylen agreed to add an additional \$1000.00

Mr. Gulla stated this commission will not let the construction get ahead of the violation. Planting must be done first and then construction can start.

Conditions:

- **Planting must be done first with a \$6000 escrow check to the City given to the Agent.**
- **Planting must be checked by Agent before construction can start.**
- **If there is more than 50% dye-back of the planting, the commission will hire a professional to oversee the replanting.**
- **No further use of motorized vehicles on the path.**

Motion: To accept the project at 28-2148 137 Wingaersheek Rd

1st: Ann Jo Jackson

2nd: Barry Gradwohl

Vote: Approved 6-0

Letter Permit

Monte Rome 2729 Harbor Loop

Mr. Rome stated the need to clean up shells that have accumulated over ten years from spills. There has been a buildup and would like to clean it up. There is approximately 10-12 feet of shells.

Ms. Press stated she spoke with the Division of Marine Fisheries and there is a time restriction for Flounder spawning until June 30. A layer of shells must remain intact for spawning, so that silt is not dislodged from the bottom of the harbor.

Mr. Rome stated the barge is going back to Boston soon and would like to get the work done.

Mr. Gulla stated that you must notify the agent prior to work starting.

Conditions:

- **Notify Agent prior to work starting.**

Motion: To approve the letter permit for shell removal

1st: Ann Jo Jackson

2nd: Steve Phillips

Motion: Approved 6-0

II. PUBLIC COMMENT - None

III MINUTES REVIEW

Motion: To approve June 1, 2011 minutes

1st:

2nd:

Vote: Approved

IV PUBLIC HEARING approximately 7:15 PM

A. New-28-2151- 8 Riggs Point Road, Notice of Intent submitted by Mary Villare, to demolish and re-build single family dwelling with a deck in riverfront resource area. (Map 112 lot 71).

Presenter: Brian Milisci, Whitman & Bingham 510 Mechanic Street, Leominster, MA. 01453

Mr. Milisci stated that less than a year ago this property was listed on the abandoned properties list. It is 7400 square feet in size. We will demolish the house and replace it with a new house. The lot is undersized and it does meet zoning offset. It is within 200 feet of the Mill River. It is 40 feet above the Mill River and is in the riparian zone. The house will be tied into municipal facilities.

Commission Comments:

Mr. Gulla asked for a review of the Alternative Analysis.

Mr. Milisci reviewed the analysis with the commission (available at 3 Pond Rd) stating the area was originally camps and the lot was created prior to the riverfront protection act. The house will stay within the confines of the lot.. There will be a small deck in back and a small gable at the front door. He stated there is a lot of ledge and the abutters were concerned with blasting. He stated that if this is the case the home will be pinned to the ledge.

Mr. Gulla asked where the mitigation would be done.

Mr. Milisci stated it is very difficult to show where we can plant anything. There is a total roof area of 200 feet. He asked to bring in a planting plan after the fact as a condition.

Mr. Gulla stated his ultimate concern is that there is just not enough room. You will need 1400 square feet of mitigation.

Mr. Milisci stated once we see when we are out there; we may be able to save some existing vegetation. I am confident we can find 1500 square feet.

Mr. Gulla stated we will need to have planting plan in place prior.

Ms. Press stated a planting plan and planting site visit before we get to pre-construction.

Public Comment: None

Motion: To continue 28-2151- 8 Riggs Point Road, submitted by Mary Villare, to demolish and re-build single family dwelling with a deck in riverfront resource area. (Map 112 lot 71) to July 20 at 7:15.

1st: Steve Phillips

2nd: Charles Anderson

Vote: Approved 6-0

B. New- 28-2150- 63 Rogers Street, Notice of Intent submitted by Leonard Linquata, to remove and rebuild a structure and a piling supported pier in a coastal resource area. (Map 7 lot 1).

Presenter: Leonard Linquata, Gloucester House Restaurant

Commission Comments:

Ms. Press stated part of project is done by emergency order. The wharf is in need of repair as well as the pier and underneath the building. The pilings will be cut.

Mr. Gulla stated the Shellfish warden and Harbormaster stated this would have no impact.

Public Comment: None

Conditions:

- Boom after June 30 because of Flounder spawning.

Motion: To approve the project at 28-2150- 63 Rogers Street, submitted by Leonard Linquata, to remove and rebuild a structure and a piling supported pier in a coastal resource area. (Map 7 lot 1).

1st: Steve Phillips

2nd: Ann Jo Jackson

Vote: Approved 6-0

C. New- 28-2149- 255 East Main Street, Notice of Intent submitted by Salvatore Golisano, to replace pier decking and a pilings in a coastal resource area. (Map 82 lot 27)

Presenter: Salvatore Golisano 255 East Main Street

Commission Comments:

Ms. Press stated he is relocating two piles only and Jim Caulkett is okay with it. The new piles have to be driven in.

Public Comment: None

Motion: To approve the project at 28-2149- 255 East Main Street, submitted by Salvatore Golisano, to replace pier decking and a piling in a coastal resource area. (Map 82 lot 27)

1st: Steve Phillips

2nd: Ann Jo Jackson

Vote: Approved 6-0

D. New – 15 Horton St Notice of Intent submitted by Ginger Attaya, 15 Horton Street, to enclose a deck portion, add 3 piling supports and add an addition on a frost wall foundation in a coastal resource area. (Map 128 lot 23)

Presenter: Charles Boland , 30 Haskell Street

Mr. Boland stated the project has two parts. There will be a 10x14 extension to increase the second bedroom for the house. The second part is to pull the wall to the railing of deck. There is no work is done to the ground. Three pilings will go into the ledge and it will be pulled out 8 feet. No plantings will be removed, but just trimmed. It will be sona tube construction and minimal disturbance to the land.

Commission Comments:

Ms. Press would like to set up a site visit.

Mr. Gulla stated his concern for mitigation issues. Impervious surface is being added and he does not know where the mitigation will be.

Ms. Press stated we didn't discuss the pilings on the site walk and will need to have one with Jim Caulkett. There will be additional pilings underneath the deck to support the new addition.

Public Comment:

Theodore Williams 17 Horton Street

Mr Williams stated this project is wrong on many levels. He addressed the 12x14 bedroom expansion: he stated the applicant's lack of knowledge of the Gloucester Wetlands Act Ordinance Article 2. section 12-10 & 12-11. He read from the act. This would be a negative impact on this project. Section 9.32 also prevents this project from going forward.

The project will require drilling, digging and most likely blasting and relocation of gas, & sewer & water lines. I don't see this as a valuable use of the wetlands. This project will not meet the criteria for a Chapter 91 license.

Mr. Williams addressed the expansion of living room and master bedroom; he stated he was also opposed to this portion of the project for the same reasons as above. This will require a new Chapter 91 license. If the commission examined the file you will see that the applicant has already sent a letter to DEP requesting that this part of the project be considered as a minor modification to the Chapter 91 license number 6248. The license was issued in 1975 and is expired.

The Commission was previously notified by me on October 5 2010 that the applicant was trying to use an expired license. Procedurally the applicant should have gotten assurance from the Commission first instead of going to DEP first. (Comments are available at 3 pond road).

The commission set up a site visit for Monday June 20 at 12:00

Motion: To continue the project at 15 Horton St submitted by Ginger Attaya, 15 Horton Street, to enclose a deck portion, add 3 piling supports and add an addition on a frost wall foundation in a coastal resource area. (Map 128 lot 23) to July 20, at 7:15.

1st: Ann Jo Jackson

2nd: Barry Gradwohl

Vote: Approved 6-0

V. PUBLIC HEARINGS approximately 8:15 PM

A. New- 74 Holly Street Notice of Intent submitted by Frances Osten, 74 Holly Street, to remove a derelict deck over a tidal bank, re-construct a retaining wall and add a stone patio and steps in a coastal resource area. (Map 123 lot 23)

Presenter: Robert Frances Osten 74 Holly St.

Mr. Osten stated they would like to remove the existing deck, extend the lawn and add a patio. A new retaining wall will be needed and will be 3 ½ feet high. The asphalt will be removed and bluestone set in sand will be installed.

Commission Comments:

Ms. Press stated there will be a lot of hardscaping near the water. It could cause erosion issues. If there are no roots holding the area it will be destabilizing. She suggested planting shrubs in front of patio.

Public Comment: None

Conditions:

- Plant shrubs in front of new patio for erosion control

Motion: To approve the project at 74 Holly Street submitted by Frances Osten, 74 Holly Street, to remove a derelict deck over a tidal bank, re-construct a retaining wall and add a stone patio and steps in a coastal resource area. (Map 123 lot 23)

1st: Ann Jo Jackson

2nd: Barry Gradwohl

Vote: Approved 6-0

B. Continuation- NOI 28-2138- 209 Essex Ave, Notice of Intent submitted by Anthony Taliadoros, for after the fact stream alteration, and to remove a drainage pipe, and fill in an intermittent stream bed. (Map 218 lot 96.)

Presenter: Attorney Michael Faherty

Attorney Faherty stated he had requested that this matter be referred to the City for their comments. The city issued a statement to Lisa Press stating they are not making any recommendations at this time. The water in Fernwood Lake is unsuitable quality for drinking. In addition to that, there has been no effort to restore the boards that used to be installed at the head wall of the spillway. You can see the rust lines on the rocks as the water is down considerable. A dam study was done two years ago indicated that the north dam is a priority dam. Calculations have been done without the boards in place for a 100 year storm. The conclusion was that in the event of the 100 year storm, the overflow from Fernwood would overwhelm the drain that goes underneath Essex Ave, and there would be an overtopping of Essex Ave. Based on that information; the City did not want to be in the position to make any recommendations unless there was much more calculations on the amount of the flow coming out of the pond, the capacity of the drain that goes under the road etc.

The culvert underneath the street is an 18 inch culvert. It initially started out as 3 foot x 6 foot stone culvert and at the end of the culvert is where the pipe takes the turn and goes across the street. It is not a safe situation to crawl in there. Attorney Faherty gave a history of the culvert to the commission. We were able to find in two previous filings with this Commission that in 1987 & 1996 there are surveyed and stamped plans of the size of the existing bed of the intermittent streams. If we would to restore it, we would restore only to the volume it was proved in place in 1987 & 1996.

Commission Comments:

Ms. Press stated that Mr. Keane did say he thought the stream should be restored as it was three years ago. It needs to be the size and width as it was. Ms. Press stated she would like to bring in DEP. The city doesn't own the culvert. It is owned by Mass Highway.

Attorney Faherty stated the position of Mr. Taliadoras is there has been additional flow coming down across his property caused by two things. The failure to shunt two wall and additional flows by failure to maintain the board at the spillway. That was confirmed. The city engineer stated that if you had a 100 year event it would overtop Essex Ave. The culvert is controlled by mass highway. The restriction would be at the culvert. The city doesn't want to make any recommendations that would affect the ability of the channel on the other side of the street. Our position is that the city has no authority to send additional flow that they are currently and we are controlling the flow that is currently coming by using a larger pipe.

Ms. Press stated I think this a DEP issue and it needs to be restored to what it was.

Mr. Phillips stated he also thought DEP should be involved. Can you contrast the dimension shown and as they existed a year and a half ago before the clients filling? What is your argument that takes you back to 1987?

Attorney Faherty stated that in 1987 & 1996 is what we would restore the stream back to. Mr. Keane was saying that we need to rebuild this stream bed to accommodate something more.

Ms. Press stated Mr. Keane said if the dam failed and there was a flood- you are less likely to be liable if you restored the channel of that stream, but if you altered it you would be liable.

Public Comment: None

Motion: To continue NOI 28-2138- 209 Essex Ave, Notice of Intent submitted by Anthony Taliadoros, for after the fact stream alteration, and to remove a drainage pipe, and fill in an intermittent stream bed. (Map 218 lot 96.)

1st: Barry Gradwohl

2nd: Ann Jo Jackson

Vote: Approved all 6-0

Rob Gulla recused himself

C. Continuation- 28-2140-239 Eastern Ave. Notice of Intent submitted by Chris McCarthy, Eastern Avenue Storage, after the fact removal of vegetation, with proposed maintenance of stream crossing by hand, and to clear debris pile from buffer to an inland resource area. (Map 161 lots 9, 11).

Presenter: Chris McCarthy 17 Sleep Hollow Road

Mr. McCarthy stated a site visit was held with the Agent and lists of changes have been made. He stated he had wanted to remove some invasive trees, however the agent suggested letting everything grow and plant native species. There will be no clearing of the area. Mr. McCarthy reviewed the revised plan with the commission.

Commission Comments:

Ms. Press stated she likes this plan. She stated she would like to close the hearing and she would then come up with all the necessary conditions to complete the plan. It can then be approved at the 7:05 time slot at the next meeting.

Public Comment: None

Motion: To close the public hearing process for 28-2140-239 Eastern Ave. submitted by Chris McCarthy, Eastern Avenue Storage, for after the fact removal of vegetation, with proposed maintenance of stream crossing by hand, and to clear debris pile from buffer to an inland resource area. (Map 161 lots 9, 11). To be continued to July 6, 2011 for approval of Agents conditions.

1st: Steve Phillips

2nd: Charles Anderson

Vote: Approved 5-0

Rob Gulla rejoined the commission

E. New Hodgkins Cove, Request for Determination submitted by US Fish & Wildlife, to remove 3 patches of invasive species.

Presenter: Sara Janson, US Fish & Wildlife, Newburyport

Ms. Janson stated the state is attempting to control the invasive Perennial Pepperweed. They have found 1 location for Pepperweed in Gloucester. They would like to use a herbicide for control. It is on a sandy shore.

Commission Comments:

Mr. Phillips clarified that herbicide could be used for removal or it could be done manually.

Ms. Janson stated it could be done either way.

Ms. Press stated the area where the Pepperweed is located is next to clam flats and any herbicides used could affect the embryos of the clams. She stated that Dave Sargent is very concerned.

Mr. Gulla recommended that the removal be done manually.

Public Comment: None

Conditions:

- **All removal of Perennial Pepperweed to be done by hand**

Motion: Negative determination for the project at New Hodgkins Cove submitted by US Fish & Wildlife, to remove 3 patches of invasive species.

1st: Barry Gradwohl

2nd: Arthur Socolow

Vote: Approved 6-0

VI. PUBLIC HEARINGS approximately 9:15 PM

A. Continuation- 28-2101-31 Stanwood Ave. Notices of Intent submitted by Gary Litchfield, Litchfield Company, to construct 3 duplex dwellings, driveways, utilities, grading and landscaping in a riverfront resource area. (Map 230 lot 51).

Applicant requests continuation to July 6, 2011

E. 28-2100 33 Stanwood Ave

F. 28-2099 35 Stanwood Ave

Motion: To continue the project at - 28-2101-31 Stanwood Ave. Notices of Intent submitted by Gary Litchfield, Litchfield Company, to construct 3 duplex dwellings, driveways, utilities, grading and landscaping in a riverfront resource area. (Map 230 lot 51).to July 6, 2011

1st: Ann Jo Jackson

2nd: Barry Gradwohl

Vote: Approved 6-0

Motion: To continue the project at -. 28-2100 33 Stanwood Ave. Notices of Intent submitted by Gary Litchfield, Litchfield Company, to construct 3 duplex dwellings, driveways, utilities, grading and landscaping in a riverfront resource area. (Map 230 lot 51).to July 6, 2011

1st: Ann Jo Jackson

2nd: Arthur Socolow

Vote: Approved 6-0

Motion: To continue the project at 28-2099 35 Stanwood Ave. Notices of Intent submitted by Gary Litchfield, Litchfield Company, to construct 3 duplex dwellings, driveways, utilities, grading and landscaping in a riverfront resource area. (Map 230 lot 51).to July 6, 2011

1st: Ann Jo Jackson

2nd: Arthur Socolow

Vote: 6-0

VII. AS TIME PERMITS: COMMISSION BUSINESS

A. Requests for Letter Permits/Modifications

VII. AGENT'S REPORT ON VIOLATIONS

B. Requests for Certificates of Compliance

C. Requests for Extension Permits

If you would like additional information regarding the review status of a particular item, please contact the Community Development Conservation Department via e-mail at mdemick@gloucester-ma.gov or via phone at 978-281-9781.

Additional information can also be obtained on the Conservation Web Page at www.gloucester-ma.gov Click Community Development for a link to Conservation.

Commission Members: If you are unable to attend the meeting, please contact the Community Development office at 978-281-9781 or send Lisa or Marie an e-mail